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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA,	)	No. CR 10-00325 CW
	)	
Plaintiff,	)	
	)	
v.	)	<del>PROPOSED</del> ORDER DETAINING
	)	DEFENDANT PENDING TRIAL AND
JOSE GARCIA-VILLEGAS,	)	EXCLUDING TIME UNDER THE
	)	SPEEDY TRIAL ACT
Defendant.	)	
	)	

I. DETENTION ORDER

Defendant Jose Garcia-Villegas is charged in a one-count indictment with being a Deported Alien Found in the United States, in violation of 8 U.S.C. §§ 1326(a) and (b). On May 20, 2010, the United States moved for defendant's detention pursuant to 18 U.S.C. § 3142(f)(2)(A) (because there is a serious risk defendant will flee), and subsequently asked for a detention hearing pursuant to 18 U.S.C. § 3142(f). Following a hearing on May 25, 2010, under 18 U.S.C. § 3142(f), and considering the parties' proffer and the factors set forth in section 3142(g), the Court finds that no condition or combination of conditions in section 3142(c) will reasonably assure the defendant's appearance in this case. *See* 18 U.S.C. §§ 3142(e) and (f); *United States v. Motamedi*, 767 F.2d 1403, 1406 (9<sup>th</sup> Cir. 1985).

1 Specifically, the Court notes the defendant's criminal history, as documented in the  
2 Pretrial Services report, his alleged immigration status, and the fact that the defendant is subject  
3 to an Immigration and Customs Enforcement detainer hold. The Court, therefore, orders that the  
4 defendant be detained pending trial.

5 The defendant did not request a full bail study at this time, such as an interview by  
6 Pretrial Services, but reserved his right to present information at a future bail hearing should his  
7 circumstances change. *See* 18 U.S.C. § 3142(f) (a defendant has the right at a section 3142(f)  
8 hearing to, with the assistance of counsel, testify, present witnesses, cross-examine adverse  
9 witnesses, and present information by proffer or otherwise).

## 10 II. SPEEDY TRIAL EXCLUSION

11 For the reasons stated in open court on May 25, 2010, and as stipulated to by the parties,  
12 the Court excluded time under the Speedy Trial Act from May 25, 2010, to June 15, 2010, to  
13 enable defense counsel to investigate the matter, including review of discovery. The Court  
14 found that (A) failure to grant the continuance would unreasonably deny defense counsel the  
15 reasonable time necessary for effective preparation, taking into account the exercise of due  
16 diligence, and (B) the ends of justice served by the continuance outweigh the best interests of the  
17 public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(1)(7)(A) & (B)(iv).

## 18 III. CONCLUSION

19 Time is excluded under the Speedy Trial Act between May 25, 2010, and June 15, 2010.

20 The Court detains the defendant as a serious flight risk and because no condition, or  
21 combination of conditions, could assure the defendant's appearance in this case. Because the  
22 defendant waived his right to present information under 18 U.S.C. § 3142(f) without prejudice to  
23 his raising any relevant information at a later hearing, the Court orders that the hearing may be  
24 reopened at the defendant's request at a future time.

25 The Court orders that the defendant be committed to the custody of the Attorney General  
26 or a designated representative for confinement in a corrections facility separate, to the extent  
27 practicable, from persons awaiting or serving sentences or held in custody pending appeal. *See*  
28 18 U.S.C. § 3142(i)(2). The defendant must be afforded a reasonable opportunity to consult

1 privately with counsel. *See id.* § 3142(i)(3). On order of a court of the United States or on  
2 request of an attorney for the United States, the person in charge of the corrections facility must  
3 deliver the defendant to the United States Marshal for a court appearance. *See id.* § 3142(i)(4).

4 IT IS SO ORDERED.

5  
6 DATED: May 26, 2010

  
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7 LAUREL BEELER  
8 United States Magistrate Judge  
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